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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Adan Rodriguez Zamudio,

Plaintiff-Petitioner,

A Civil Action

v.

William Barr, Attorney General of the United States;

Kevin McAleenan, Acting Secretary of Homeland Security of the United States;

L. Francis Cissna, Director United States Citizenship and Immigration Services;

Richard Miller, Portland Field Director United States Citizenship and Immigration Services;

**PETITION FOR
NATURALIZATION PURSUANT
TO 8 U.S.C. § 1447(b).**

**REQUEST FOR ORAL
ARGUMENT**

Defendant-Respondent.

Plaintiff, Adan Rodriguez Zamudio (Mr. Rodriguez), applied for naturalization before United States Citizenship and Immigration Services (USCIS). He appeared for an examination on June 5, 2018. Defendants have failed to make a determination within 120 days of Plaintiff's examination for naturalization as required by statute and regulation. Therefore Mr. Rodriguez requests that the Court determine his naturalization application pursuant to 8 U.S.C. § 1447(b).

Subject Matter Jurisdiction

1. This Court has subject matter jurisdiction to determine Mr. Rodriguez's naturalization application or remand it to USCIS with instructions, pursuant to 8 U.S.C. § 1447(b).

Venue

2. Venue lies in the District of Oregon because that is where the Plaintiff resides, where the events giving rise to this action occurred, and where Defendants reside. 28 U.S.C. § 1331(e); 8 U.S.C. § 1447(b).

Parties

3. Plaintiff, Adan Rodriguez Zamudio, is a 44-year-old lawful permanent resident of the United States and a resident of Pendleton, Oregon.

4. Defendant, William Barr, is the Attorney General of the United States and he is being sued in his official capacity. In his official capacity, Mr. Barr is in charge of enforcing the immigration laws of the United States.

5. Defendant, Kevin McAleenan, is the acting Secretary of Homeland Security and he is being sued in his official capacity. In his official capacity, Mr. McAleenan is in charge of enforcing the immigration laws of the United States.

6. Defendant L. Francis Cissna is the Director of the United States Citizenship and Immigration Services and is being sued in his official capacity. In his official capacity, Mr. Cissna has authority over adjudications of immigration applications, immigration benefits, and issuance of immigration documents

7. Defendant Richard Miller is the Field Director of the United States Citizenship and Immigration Services in Portland, Oregon and is being sued in his official capacity. In his official capacity, Mr. Miller has authority over adjudications of immigration applications, immigration benefits, and issuance of immigration documents in the Portland Field Office f USCIS.

Statement of Claim

8. Plaintiff, Adan Rodriguez Zamudio, is a 44-year-old citizen of Mexico and a legal permanent resident of the United States. Mr. Rodriguez resides in Pendleton, Oregon.

9. Mr. Rodriguez has lived in the United States since he was an infant. He was accorded lawful permanent resident status as of February 28, 1990 pursuant to 8 U.S.C. § 1255a. Mr. Rodriguez has resided continuously in the United States since that time.

10. On January 31, 2018, Mr. Rodriguez filed, pro se, an application to be naturalized as a citizen of the United States in accordance with Chapter 2 of the Immigration and Nationality Act, 8 U.S.C. § 1421 *et. seq.*

11. Defendants conducted the examination on Mr. Rodriguez's naturalization application on June 5, 2018. Mr. Rodriguez has passed the required civics and English test, and meets all of the statutory requirements for naturalization. Electronic USCIS records indicate that he was placed in the queue for the oath ceremony. However, a decision has not been issued and an oath ceremony has not been scheduled. His naturalization application remains pending.

12. USCIS must grant or deny a naturalization application at the time of the examination or, at the latest, within 120 days after the initial examination. 8 C.F.R. § 335.3.

13. Defendants have failed to issue a decision on Mr. Rodriguez's naturalization application within 120 days of the June 5, 2018 examination.

14. When USCIS fails to adjudicate an application within 120 days of the examination, the applicant may seek de novo review of the application in United States district court in the district in which the applicant resides. 8 U.S.C. § 1447(b). When the applicant requests district court review, the district court gains exclusive jurisdiction over the application, *United States v. Hovsepian*, 359 F.3d 1144, 1164 (9th Cir 2004) (en banc), and it may naturalize the applicant or "remand the matter, with appropriate instructions, to the Service to determine the matter." 8 U.S.C. 1447(b).

Causes of Action

15. **First Claim.** Plaintiff's allegations 1-14 are repeated and incorporated herein. Because Defendants have failed to adjudicate Mr. Rodriguez's naturalization application within 120 days of his naturalization examination, he is entitled to de novo adjudication of his naturalization application by this Court under 8 U.S.C. 1447(b). The Court should grant Mr. Rodriguez's application for naturalization because he meets all of the requirements for naturalization under chapter 2 of the Immigration and Nationality Act, 8 U.S.C. § 1421 *et seq.*, and therefore has the right to become a naturalized citizen of the United States.

Exhaustion

16. To the extent that there are any administrative remedies available, Plaintiff has exhausted them. The statute provides for district court action since Defendants have failed to make a determination within 120 days of his examination.

Prayer For Relief

Plaintiff respectfully prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Conduct de novo review of Mr. Rodriguez's application for naturalization, determine that he is qualified for naturalization, and order Defendants to administer an oath and issue a certificate of naturalization;
- 3) Award Plaintiff his costs and reasonable attorneys' fees in this action as provided by 28 U.S.C. § 2412 or other statute; and
- 4) Grant such further relief as the Court deems just and proper.

Respectfully submitted this 20th of May 2019,

/s/ Jennifer M. Rotman

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